

ABSTRACT

Public Servants-Allegation of corruption against Sri Inturi Mallikarjuna Chowdary, Village Revenue Officer, Kandukur, Prakasam district-Trapped on 13.06.2008-Sanction of Prosecution-Orders Issued.

REVENUE (VIG.II) DEPARTMENT

G.O.Ms.No.

Dated: .12.2009

Read the following

- 1.G.O.Ms.No.1130 Rev (Vig.II) Dept, dt.27.10.2009
- 2.From the D.G, ACB Lr.No.144/RCT-NPK/08,
Dt.24.11.09

ORDER:

1. Whereas Sri Inturi Mallikarjuna Chowdary, Village Revenue Officer, Kandukur, Prakasam district from 12.9.1987 to 13.06.2008 and by virtue of the post held by him, he falls under the category of Public Servant as defined under section 2 (c) of the Prevention of Corruption Act, 1988;
2. And Whereas, Sri Kunam Rama Rao S/o Peda Narasimham aged 46 years, resident of Kandukur, Praksam district is the complainant.
3. And Whereas, it is alleged that Sri. Kunam Rama Rao, his brother Sri K. Mallikarjuna Rao and mother are having Ac.6.50 cents of agricultural land jointly. They shared the said land i.e 1.75 acres to him, 3.75acres of land to his brother and 1.30 acres of land to his mother. In April, 2008 they submitted an application to the Tahsildar, Kandukur Mandal, Prakasam district with a request to issue Pattadar Pass Books and Title Deeds for the above lands in his name and in the name of his brother and mother. The Tahsildar, Kandukur endorsed the same to Sri Inturi Mallikarjuna Chowdary, Village Revenue Officer, Kandukur, Prakasam district for further action. On that Sri Kunam Rama Rao approached sri I.Mallikarjuna Chowdary and requested him to process to issue the Pattadar Pass Books and Title Deed books. On that Sri I. Mallikarjuna Chowdary demanded Sri Kunam Rama Rao to pay Rs.4,500/- for issuing Pattadar and Title Deed Books which Sri Kunam Rama Rao expressed his inability to pay any amount. On 2.5.2008 he along with his brother and mother received the Pattadar Pass Books. Sri Kunam Rama Rao, his brother and mother enquired with Sri I. mallikarjuna Chowdary about their Title Deed Books. Sri Mallikarjuna Chowdary demanded Sri Kunam Rama Rao to pay Rs.1,300/- as illegal gratification to issue the Title Deed Books. Again on 1.6.2008 Sri Kunam Rama Rao requested Sri I. Mallikarjuna Chowdary about his work but Sri I. Mallikarjuna Chowdary expressed his earlier demand. On 10.06.2008 Sri Kunam Rama Rao finally approached Sri I.Mallikarjuna Chowdary and requested him to issue the Title Deed Books. On that Sri I. Mallikarjuna Chowdary, Village Revenue officer informed that the Title Deed Books were prepared and he obtained the signature from all the officer and demanded earlier bribe amount of Rs.1,300/-. As there was no other go, Sri Kunam Rama Rao accepted to pay the demanded bribe amount of Rs. 1,300/- to Sri I. Mallikarjuna Chowdary. Sri Kunam Rama Rao was unwilling to pay the demanded bribe amount, he approached the Anti-Corruption Bureau Office, Nellore and gave a report against Sri I. Mallikarjuna Chowdary to the District Inspector, Anti-Corruption Bureau, Nellore to take action against him;
4. And Whereas, it is further alleged that on the complaint of Sri Kunam Rama Rao, the Deputy Superintendent of Police, Anti-Corruption Bureau, Nellore

registered a case in Cr.No.11/RCT-NPK/2008 under section 7 of the Prevention of Corruption Act, 1988 and took up investigation and conducted pre-trap proceedings in the presence of two mediators in his office;

5. And whereas on 13.06.2008 at 9-00 A.M, Deputy Superintendent of Police, Anti-Corruption Bureau, Nellore along with his staff, two mediators and Sri Kunam Rama Rao left Anti-Corruption Bureau Office, Nellore and reached near the Office of the Tahsildar, Kandukur at 11-45 hours and got the vehicle stopped. The Deputy Superintendent of Police asked Sri Kunam Rama Rao to get down from vehicle by reiterating his earlier instructions. Accordingly, Sri Kunam Ram Rao proceeded towards the office of the V.R.O, Kandukur. After that the two mediators, the Deputy Superintendent of Police, Inspector and staff got down from the vehicle and took vantage positions within the vicinity of the said office. The Deputy Superintendent of Police led the trap party by taking vantage position. Sri Kunam Rama Rao was found entering into the office of Sri I. Mallikarjuna Chowdary at bout 12-00 hours. He came to the office of the Village Revenue Office and entered into the room and found that the office was full with public and the Village Revenue Officer was attending the some work. He sat in a chair and waited. At about 01.00 P.M the Village Revenue officer became leisure. Then he asked the Village Revenue Officer Sri I. Mallikarjuna Chowdary about the title deeds then, the Village Revenue Office asked him about demanded bribe amount. Sri Kunam Rama Rao took out the tainted amount from his wearing shirt left upper inner pocket and produced before the Village Revenue Officer Sri I. Mallikarjuna Chowdary. He also requested the Village Revenue Officer to reduce the bribe amount as he was facing financial problems. Then the Village Revenue Officer accepted for that and took up two five hundred rupee notes from Sri Kunam Rama Rao and saying to keep Rs. 300/- with Sri Kunam Rama Rao. Then Sri Kunam Rama Rao kept the Rs. 300/-in the pocket. After that the Village Revenue Officer Sri I. Mallikarjuna Chowdary asked him to wait while to go to his home where the title deeds were kept. Then Sri Kunam Rama Rao came out of the room and gave the pre-arranged trap signal by wiping his face twice with kerchief. Immediately, the Deputy Superintendent of Police and other trap party members rushed into the office room of Sri I. Mallikarjuna Chowdary. While the trap party entering into the office room, Sri Kunam Rama Rao was standing in front of the office of Sri I. Mallikarjuna Chowdary. The Deputy Superintendent of Police asked Sri Kunam Rama Rao to stay away from that place at some distance till he was called in. On entering into the office of the Village Revenue Office, Kandukur, the trap party member found one person sitting in the chair in front of the table. Then the Deputy Superintendent of Police disclosed his identity, other trap party members and ascertained the identity of the said person as Sri I. Mallikarjuna Chowdary and prepared sodium carbonate solutions in two glass tumblers, rinsed both his hand fingers into the prepared solutions separately. On doing so the right hand fingers yielded positive result, left hand fingers did not yield positive result. Then the Deputy Superintendent of Police asked Sri I. Mallikarjuna Chowdary to produce the tainted amount which he received from Sri Kunam Rama Rao. Then the Sri I. Mallikarjuna Chowdary produced the two five hundred rupee notes from his wearing shirt left side pocket. On the request of the Deputy Superintendent of Police, Anti-Corruption Bureau, one of the mediator verified two notes of Rs. 500/- denomination. The number of the notes were compared with the numbers mentioned in the mediators report No.1 and found tallied. Then the Deputy Superintendent of Police seized the two notes of Rs.500/- denomination for further investigation. The inner lining of the shirt left side inner pocket of Sri I. Mallikarjuna Chowdary were subjected with prepared sodium carbonate solution which turned into pink colour. Then the Deputy Superintendent of Police asked Sri I. Mallikarjuna Chowdary, who stated Sri Kunam Rama Rao voluntarily gave the amount to him and he never demanded

Sri Kunam Rama Rao to pay bribe amount. Then Sri Kunam Rama Rao stated that on the demand of Sri I. Mallikarjuna Chowdary, he paid the bribe amount. Then the Deputy Superintendent of Police confronted the version of Sri I. Mallikarjuna Chowdary with Sri Kunam Rama Rao and they stuck to their versions. Then Sri Kunam Rama Rao produced Rs.300/- from his wearing shirt. The mediators verified and found Rs.300/- and the numbers of the notes were compared with the numbers of the notes in the mediator's report-1 and found tallied. Then the Deputy Superintendent of Police seized the three hundred rupee notes for further proceedings. Then the Deputy Superintendent of Police along with the mediators and Sri I. Mallikarjuna Chowdary went to the house of Sri I. Mallikarjua Chowdary situated at door No.16-5-29, Pamuru Road, Kandukur and Sri I. Mallikarjuna Chowdary produced the three original title deed books of Sri Kunam Rama Rao and his brother and mother and the same were seized under the cover of mediators report;

6. And whereas the above said acts of Sri I. Mallikarjuna Chowdary constitute offences punishable under sections 7, 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988;

7. And whereas, the Government of Andhra Pradesh, Hyderabad being the competent authority to remove the said Sri I. Mallikarjuna Chowdary from Government service after fully and carefully examining the material placed before them in respect of the aforesaid allegation and having regard to the facts and circumstances of the case with facts and evidence on record satisfied that Sri I. Mallikarjuna Chowdary, Village Revenue officer, Kandukur, Praksam District should be prosecuted in a Court of law for the above said offences;

8. And whereas, the Director General, Anticorruption Bureau, Hyderabad in his letter 2nd read above has requested for rectification of certain defects in the prosecution sanction orders issued by the Government in the order 3rd read above.

9. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 19 of the prevention of Corruption Act, 1988, the Government of Andhra Pradesh hereby accord sanction for Prosecution of the said Sri I. Mallikarjuna Chowdary, Village Revenue Officer, Kandukur, Praksam district for the offences punishable under sections 7 and 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988 and for any cognizable offences punishable under any other acts being in force in respect of the aforesaid acts and for taking cognizance of the said offences by a court of competent jurisdiction.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHR PRADESH)

(ASUTOSH MISHRA)
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director General,
Anti-Corruption Bureau, Hyderabad.

PARAWISE REMARKS IN THE O.A.No.10446/2009 FILED BY SRI YEJALA
PRASAD RAO, TAHSILDAR (DISMISSED), OFFICE OF THE TAHSILDAR OFFICE,
DATIRJULU (M), VIZIANAGARAM DISTRICT

Para 1 to 5 : No Remarks.

Para 6 (a) to (c) : No Remarks.

Para-6 (d) :

The contention in expectation that the applicant was reinstated on 16.01.2004 vide CCLA's Ref.No.VS I (3)/690/01, dt.16.01.2004 and thereafter he is continuing working are denied. After considering the

material available on record the Special judge rightly observed that the theory of the Accused Officer that PW-1 asked him to mutate the name of his wife in the Pattadar Pass Books, when he refused to the same, PW-1 bore grudge is far from probabilities and it is unbelievable.

Para-6 (e):

The contention of the Applicant that the Government all of a sudden issued G.O.Ms.No.820 on 07.08.2009 and next day i.e 08.06.2009 that the Spl. Judge pronounced the Judgment, is hereby denied. The Judgment pronounced by the Spl.Judge for ACB Cases, Visakhapatnam in C.C.No.7/2003 on 08.06.2009 and Government issued G.O on 07.08.2009 after a lapse of two months.

Para- 6 (f):

The contention excepting to the extent that the applicant preferred appeal before High Court of A.P and suspending the sentence of imprisonment passed by Spl.Judge pending disposal of the appeal and his health conditions are hereby denied. The contention that in similar matters the Hon'ble Tribunal granted interim directions i.e suspending the proceedings of the dismissal orders, consequent on account of conviction of

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Spl.Judge for ACB cases by virtue of judgment pronounced by Hon'ble High Court in a writ petition No.5444/07 between Sri K. venkata Rama Reddy, A.P.E.P.D.C.L and others is hereby denied. The purport of judgment is what was suspended by the court is only sentence i.e one relating to imprisonment, neither conviction nor sentence of payment of fine were suspended and they are operating against the petitioner. Mere stay of sentence does not have effect of taking away the basis of order of dismissal. The Supreme Court time and again made it clear in Lal Sai Kunte Vs Nirmal Sinha and others reported in 2007 SCC (3) page 149 and K. C. Sareen VsCBI, Chandigarh 2001 (5) Supreme 437 that when public

servant who is convicted of corruption is allowed to continue to hold public office it would impair the morale of other public servants manning such office and consequently, that would corrode the already shrunk confidence of the people in public office besides demoralizing the other honest public servants who would be the colleagues or subordinates of the convicted persons. It is necessary that court should not aid the public servants who stands convicted for corruption charges to hold any public office, until he is exonerated after conducting a judicial adjudication at the appellate or revision court.

It is also pertinent to submit that it is a settled principle of law that the disciplinary authority is empowered to impose penalty on a Government servant on ground of conduct which has led to his conviction on a criminal charge and the penalty that should be imposed in a case of proven bribery as per Rule 25 of the A.P.C.S (CC&A) Rules, 1991 is dismissal from service. As such, Rule 25 of A.P.C.S (CC&A) Rules, 1991 authorized the competent authority to impose penalty.

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It is submitted that the Hon'ble Supreme Court have made an observation in the cae of Dy Directorof Collegiate Education (Admn) Vs S. Nagoor Meera reported in AIR 1995 S.C, 1364 that “ taking proceedings for and passing orders of dismissal, removal or reduction in the rank of a Govt svrnt who has been convicted by a Criminal Court is not barred merely because the sentence or order is suspended by the appellate court or on the ground that the said Govt Servant /Accused has been released on bail pending the appeal”. The Apex Court further observed that “ what is really relevant is the conduct of the Government Servant which has led to his conviction on criminal charge. The Respondent has been found guilty of corruption by a criminal court and until the said conviction is set aside by

the appellate or othr higher court , it may not be advisable to retain such persons in service. Hence the applicant was rightly dismissed from service vide G.O 820 Rev (Vig.II) Dept, dt. 07.08.2009.

Based on the Appeal filed by the Applicant, the Hon'ble High Court was pleased to suspend only the execution of sentence that was passed against the Applicant but his conviction was not suspended. Rule 25 (1) of A.P.C.S (CC&A) Rules, 1991 deals with the Special Procedure in certain cases and it clearly lays down that a penalty can be imposed on the ground of conduct leading to conviction on a criminal charge without having to follow a procedure laid down under Rule 20 to 24 there of. Such action could be taken without waiting for filing of appeal or the outcome of appeal, if portion of Rule 25 of APCS (CC&A) Rules, 1991 read as "Not notwithstanding anything contained in Rule 20 to 24, where penalty is imposed on a Government Servant on the ground of conduct which has led to his conviction of criminal charge, the disciplinary authority may consider the

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circumstances of the case and make such orders thereon as it deems fit". As such, Rule 25 of A.P.C.S (C.C.& A) Rules, 1991 authorized the competent authority to impose penalty.

The respondents submit that after conclusion of the trial and after considering the entire material on record, the learned Spl. Judge for ACB Cases, Visakhapatnam recorded a finding that the applicant is guilty.

In G.O.Ms.No.2 G.A (Ser-C) Dept, dt.4.1.1999 Government directed that in all proven cases of misappropriation, briber, corruption etc., penalty of dismissal from service shall be imposed. In view of the amendment to Rule 9 (x) of A.P.C.S (CC&A) Rules, 1991 as per G.O.Ms.No.458, dt.22.9.09 of G.A.(kSer-C) Dept, provided that in all proved cases of misappropriation, bribery, corruption, moral turpitude, forgery and outraging modesty of

women, the penalty of dismissal shall be imposed. As such issuing the G.O.Ms.No.820, Rev (Vig.II) Dept, dt.7.8.09 dismissing the applicant by the 3rd respondent is not illegal and arbitrary. Therefore, there are no grounds for the Honourable Tribunal to interfere with the order of dismissal passed against the applicant.

Para-7,8,11 & 12: No remarks.

Para 9 & 10:

In view of the factual position elucidated above and legal position the subject application is not maintainable under law and there are no merits in the application filled by the applicant. Under the above enumerated facts and circumstances the O. A is liable to be dismissed in the interest of justice as the relief claimed by the applicant is not tenable.

M.RAMAIAH
CHIEF VIGILANCE OFFICER &
JOINT SECRETARY TO GOVERNMENT

COURT CASE
MOST URGENT

GOVERNMENT OF ANDHRA PRADESH
REVENUE (VIG.II) DEPARTMENT

Memo No.53222/Vig.II (1)/2009

Dated:04.12.2009

Sub: O.A.No.12258/09 filed by Sri J. Pardha Sarathi, Tahsildar,
Dachepalli Mandal, Guntur District-Reg.

Ref:Orders of Hon'ble A.P.S.T, dt.01.02.2009 in O.A.NO.12258
Of 2009 filed by Sri J. Pardha Sarathi, Tahsildar,Dachepalli
Mandal, Guntur District

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The attention of the Collector, Guntur District is invited to the reference cited wherein the Hon'ble A.P.A.T, Hyderabad have directed to produce the file relating to the suspension orders issued against Sri filed Sri J. Pardha Sarathi, Tahsildar, Dachepalli Mandal, Guntur District by 15.12.2009. He is therefore, requested to take urgent necessary action in the matter and submit the compliancwe to Government.

M.RAMAIAH
CHIEF VIGILANCE OFFICER &
JOINT SECRETARY TO GOVERNMENT

To
The Collector, Guntur District.
The Spl.C.S & the Commissioner
Of Land Administration, Hyderabad.

// Forwarded by Order //

SECTION OFFICER

